

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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ALEXANDRIA NOELLE D'AMATO ,  
Plaintiff,  
-against-  
COMMISSIONER OF THE SOCIAL  
SECURITY ADMINISTRATION,  
Defendant.  
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18-CV-6998 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

Plaintiff Alexandria D'Amato brings this action pursuant to §§ 205(g) and 1631(c)(3) of the Social Security Act ("the Act") and 42 U.S.C. §§ 405(g) and 1383(c)(3), seeking review of the denial of her application for disability insurance benefits ("DIB") and Supplemental Security Income ("SSI"). *See* Compl., Dkt. 1. The parties have cross-moved for judgment on the pleadings. *See* Dkts. 20, 23. On January 30, 2020, Magistrate Judge Moses issued a Report and Recommendation ("R&R"), recommending that Plaintiff's motion be granted, that the Commissioner's motion be denied, and that the case be remanded for further proceedings. *See* R&R, Dkt. 26. Neither party filed timely objections. For the following reasons, Plaintiff's motion is GRANTED, Defendant's cross-motion is DENIED, and the case is REMANDED for further proceedings consistent with Magistrate Judge Moses's R&R.

**DISCUSSION**

In reviewing final decisions of the Social Security Administration ("SSA"), courts "conduct a plenary review of the administrative record to determine if there is substantial evidence, considering the record as a whole, to support the Commissioner's decision and if the

correct legal standards have been applied.’” *McIntyre v. Colvin*, 758 F.3d 146, 149 (2d Cir. 2014) (quoting *Kohler v. Astrue*, 546 F.3d 260, 264-65 (2d Cir. 2008)). “‘Substantial evidence’ is ‘more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Selian v. Astrue*, 708 F.3d 409, 417 (2d Cir. 2013) (per curiam) (quoting *Richardson v. Perales*, 402 U.S. 389, 401 (1971)).

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). To accept those portions of the report to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *King v. Greiner*, No. 02-CV-5810, 2009 WL 2001439, at \*4 (S.D.N.Y. July 8, 2009) (citation omitted); *see also Wilds v. United Parcel Serv. Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

Careful review of Magistrate Judge Moses’s R&R reveals that there is no clear error in its conclusions. As the R&R explains, the Administrative Law Judge violated the treating physician rule by failing to provide good reasons for rejecting the opinions of Plaintiff’s treating neurologist regarding her functional limitations. Accordingly, the Court adopts the R&R in full.

### **CONCLUSION**


For the foregoing reasons, Plaintiff’s motion for judgment on the pleadings is GRANTED. Defendant’s motion for judgment on the pleadings is DENIED. This case is REMANDED for further proceedings consistent with Magistrate Judge Moses’s Report and Recommendation. *See* R&R at 42-43. Because the R&R gave the parties adequate warning, *see*

R&R at 43, Defendant's failure to file adequate objections to the R&R precludes appellate review of this decision. *See Caidor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir. 2008).

The Clerk of Court is respectfully directed to terminate all open motions and close this case.

**SO ORDERED.**

**Date: February 14, 2020**  
**New York, NY**

  
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**VALERIE CAPRONI**  
**United States District Judge**